


LAS VEGAS POLICE DEPARTMENT	OPERATIONS
SUBJECT: <i>Domestic Violence</i>	NUMBER: OPR.12
EFFECTIVE DATE: <i>9 September 2010</i>	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: 
NMMLEPSC STANDARDS: <i>OPR.13.01</i>	Chief of Police Gary Gold
	NMSA:

I. PURPOSE:

The purpose of this policy is to ensure the efficient and effective management of the Domestic Violence function by providing administrative guidance that identifies the responsibilities and processes within the uniform and other organizational components of the department.

II. POLICY:

It is the policy of the Las Vegas Police Department to manage the function of Domestic Violence in an effective and efficient manner by coordinating the efforts of uniform and other organizational components as provided in this policy.

III. APPLICABILITY:

This policy applies to all commissioned employees of the Las Vegas Police Department

IV. REFERENCES:

- A. Family Violence Protection Act (NMSA 1978 sec. 40-13-2)
- B. Crimes Against Household Members Act (NMSA 1978 sec. 30-3-11)
- C. NMMLEPSC OPR 13.01

V. DEFINITIONS:

- A. Household Member-** as used in the Family Violence Protection Act (40-13-2), means a spouse, former spouse, family member, including a relative, parent, present or former step-parent, present or former in-law, child or co-parent of a child or a person with whom the victim has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for purposes of this section.
- B. Domestic Abuse-** Means any incident by a household member against another household member resulting in:
1. Physical harm
 2. Severe emotional distress
 3. Bodily injury or assault
 4. Threat causing imminent fear of bodily injury by any household member
 5. Criminal trespass
 6. Criminal damage to property
 7. Repeatedly driving by a residence or workplace
 8. Telephone harassment
 9. Stalking
 10. Harassment
 11. Harm or threatened harm to children
- C. Co-Parent-** means persons who have a child in common, regardless of whether they have been married or have lived together at any time.
- D. Order of Protection-** means an order issued by and State District Court Judge pursuant to the Family Violence Protection Act granted for the protection of victims of domestic abuse with a specific expiration date. Violation of an Order of Protection is a criminal offense.

VI. PROCEDURE:

- A.** This policy established procedures and guidelines to be used in investigating reports of family violence. Family Violence is a serious danger and threat to society and its members. Victims of family violence are entitled to the maximum protection from harm or abuse as is permitted by law without regard to the relationship between the alleged offender and victim. The primary objectives in responding to a domestic abuse call are to de-escalate violent situations, to render assistance to the victim, to enforce the law against violators, determine the primary aggressor and to facilitate prosecution, where applicable.

1. PLEASE NOTE THAT IN THE CRIMES AGAINST HOUSEHOLD MEMBERS ACT, A *CHILD* IS NOT INCLUDED AS A HOUSEHOLD MEMBER.

B. Consequently, if the victim of "domestic" call is a minor child of the suspect/offender, the call will not be handled under the Crimes Against Household Member Act but will be handled as either parental discipline or abuse/neglect of a child, depending on the force used. If the victim is 18 years of age or over and the suspect/offender is a parent, the call will be handled as a battery. If the suspect/offender is the child of the victim or sibling of the victim, the domestic charge could be brought under either the Crimes Against Household Members or the Family Violence Protection Act, whichever is more appropriate.

C. Duties of Police Officers

1. A police officer responding to the request for assistance shall be required identify the primary aggressor by evaluating offensive and defensive wounds, past contacts and known information by the police and take whatever steps are reasonably necessary to protect the victim from further domestic abuse.
2. Upon request of the victim of domestic abuse, arranging for transportation by private means or ambulance to a medical facility.
3. Upon request of the victim of domestic abuse, accompanying the victim to the victim's residence to remove the victim's clothing and personal effects required for immediate needs and the clothing and personal effects of any children in the care of the victim.
4. Advising the victim of the remedies available under the Family Violence Act/Order of Protection, filing of appropriate crime reports, procedure for obtaining a warrant and the availability of domestic violence shelters, medical care and counseling. A victim of domestic violence will be given an "Information Card." stating the victim's rights. This will be accomplished by the officer at the scene.
5. Officers may arrest a person without a warrant when the officer is at the scene of a domestic abuse call and has probable cause to believe that the person has committed an assault or a battery upon a household member as defined above. When an arrest is made, officers shall charge the offender under the appropriate statute for battery and/or assault as authorized by 3 1-1-7, NMSA 1978. These laws can be used even when no Order of Protection exists.

6. In keeping with the intent of the Family Violence Laws, if an officer determines that a prisoner is intoxicated or under the influence of narcotics to such an extent that it would be dangerous to permit them to remain at large; or if they reasonably believe that their release might further endanger the victim, Magistrate or District Judge will be contacted and the arresting officer will request the offender to be detained.
7. Officers will enforce the provisions of valid Orders of Protection.
8. Officers will refer the victim to the Tri-County Family Justice Center, by completing a referral form; a copy will be attached to the offense report.

D. Police Officers as victims/abusing parties

1. The following procedures have been developed to ensure that department policy is applied fairly and impartially to all members of the community.
 - a. When a police officer responds to a call of domestic abuse and finds that the offender or victim is another member of the Las Vegas Police Department, the responding officer will call the Shift Supervisor, who will in turn contact the Commander On-Call.
 - b. The shift supervisor should consult with the Commander On-Call as to who is going to investigate the incident.

E. Orders of protection

1. A victim of domestic abuse may petition the District Court under the Family Violence Protection Act for an Order of Protection. The Officer will make the appropriate referrals.
2. Court orders may include, but are not limited to the following:
 - a. Awarding temporary custody of the children and allowing for visitation rights and support;
 - b. Ordering that respondent not initiate contact with petitioner;
 - c. Restraining parties from disposing of personal property other than in the course of business, as directed by the Court Order;
 - d. Enforcing other injunctive relief as the Court deems necessary, including orders to law enforcement agencies;

- e. Granting sole possession of the household to petitioner during the period the Order is effective or ordering the respondent to provide temporary suitable alternative housing for petitioner and any children to whom the respondent owes a legal obligation of support.
- 3. A police officer shall arrest without a warrant and taken into custody a person whom the police officer has probable cause to believe has violated any clauses as set forth in a valid Order or Protection. Prior to any arrests for violation of the Order of Protection, the officer will verify whether or not the respondent has been served with a copy of the Order by the San Miguel County Sheriff's Department.
- 4. Any abusing party arrested for violation of the Order of Protection will be charged under 40-13-6(c), NMSA 1978, "Violation of Order of Protection" in Magistrate Court. A criminal complaint will be completed detailing the violations. A copy of the Order of Protection should accompany the paperwork to Magistrate Court. In addition, any additional criminal charges will be filed.
- 5. If the alleged abusing party is not arrested, a report shall be filed detailing the allegations. A copy of the valid Order of Protection will be attached to the report.

VII. ATTACHMENTS:

A. Family Justice Center Referral Form



TRI-COUNTY FAMILY JUSTICE CENTER
OF NORTHEAST NEW MEXICO



Law Enforcement Referral Form

Domestic violence Victim or Witness to Domestic Violence

Date: _____ Time: _____

Name: _____ Alias: _____ Sex: M / F

Date of Birth _____ Age: _____

Offender's Name: _____ Was Offender Arrested: Y N

Current Address/Last Known/Permanent:

Physical Address: _____

Safe Mailing Address: _____

County: _____ City: _____ State: _____ Zip: _____

Safe Place to Contact: _____ Safe Phone #: _____

Safe Email: _____ Safest Day to Call: M T W T F

Was outreach information given to victim? Yes No Is it okay for a TCFJC Advocate to contact the victim? Y N

Referring Agency: _____ Victim walk-in to referring agency: Y N

Contact Person: _____ Phone: _____

Comments about referral:

FAX IMMEDIATELY TO: (505)718-7373

Eligible Client: Y N
Assigned to:
CASE # _____

If no referred to:
Mgr. Signature: _____

Time:
Date: _____

Faxed by: _____